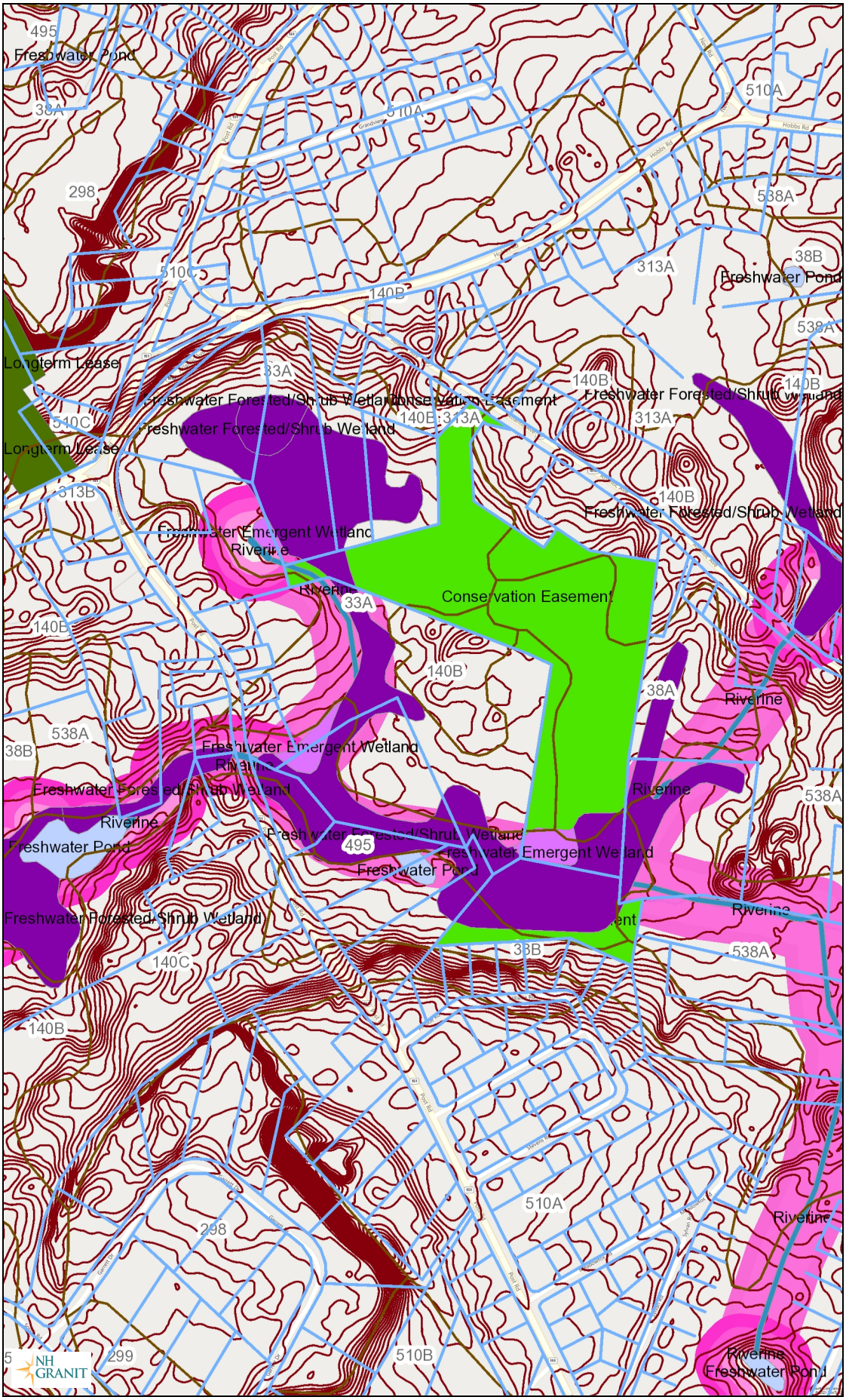
Map by NH GRANIT



Legend

- Additional lines
- Soil Series
- National Wetlands Inventory Version 2
  - Estuarine and Marine Deepwater
  - Estuarine and Marine Wetland
  - Freshwater Emergent Wetland
  - Freshwater Forested/Shrub Wetland
  - Freshwater Pond
  - Lake
  - Other
  - Riverine
- Conservation and Public Land
  - Permanent conservation land
  - Unofficial conservation land
  - Unprotected water supply land
  - Developed public land
  - Unknown
- Designated Rivers
- Cross-Sections
- Base Flood Elevations
- Flood Hazard Boundaries
  - Limit Lines
  - SFHA / Flood Zone Boundary
- Flood Hazard Zones
  - 1% Annual Chance Flood Hazard
  - Regulatory Floodway
  - Special Floodway
  - Area of Undetermined Flood Hazard
  - 0.2% Annual Chance Flood Hazard
  - Future Conditions 1% Annual Chance Hazard
  - Area with Reduced Risk Due to Levee
  - Area with Risk Due to Levee
- 50-foot Zone
- 100-foot Zone
- 150-foot Zone
- 100-foot Zone
- 150-foot Zone

Map Scale

1: 6,494

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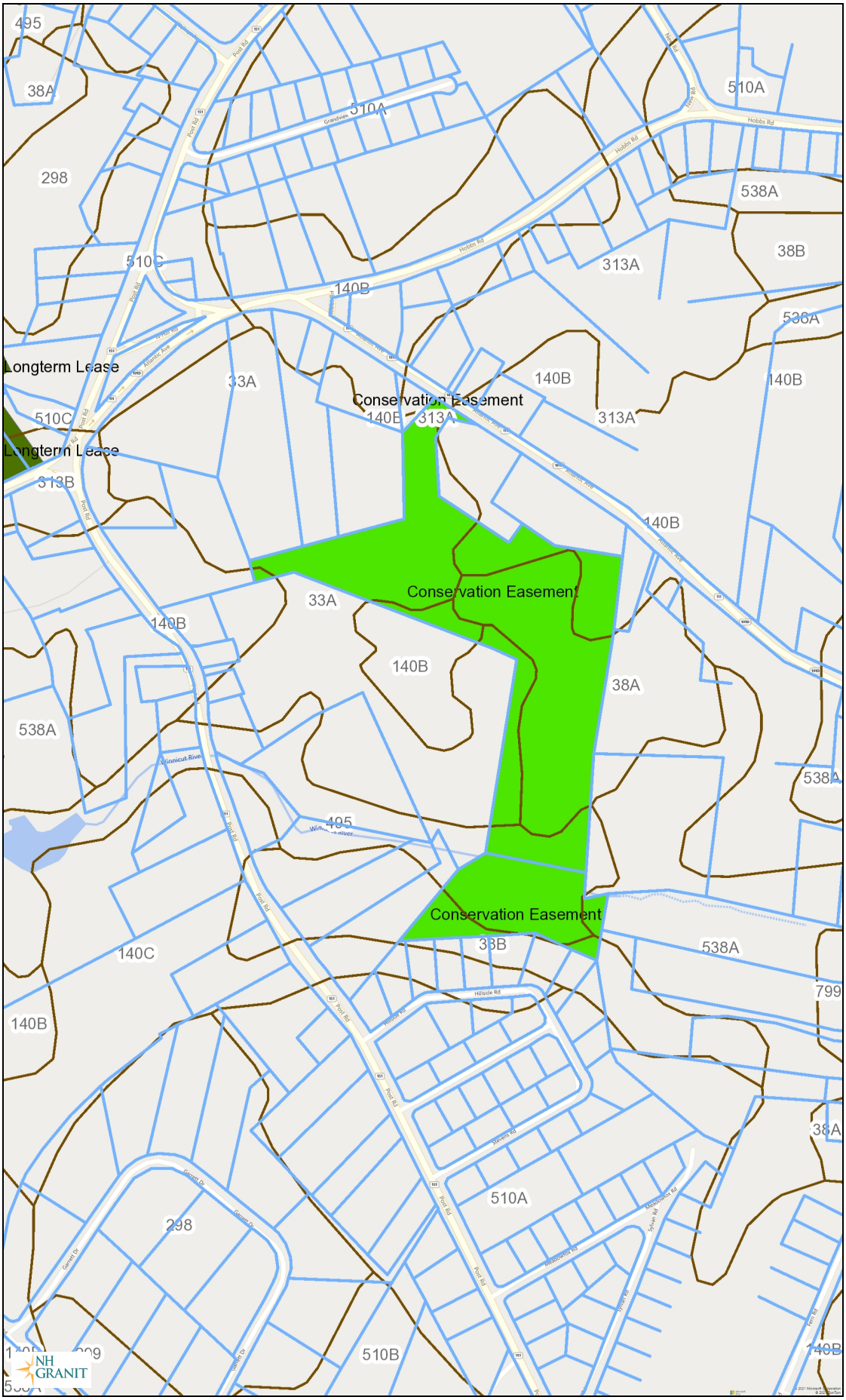
Map Generated: 10/7/2021

Notes

Map by NH GRANIT



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- Additional lines
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- Designated Rivers

Map Scale

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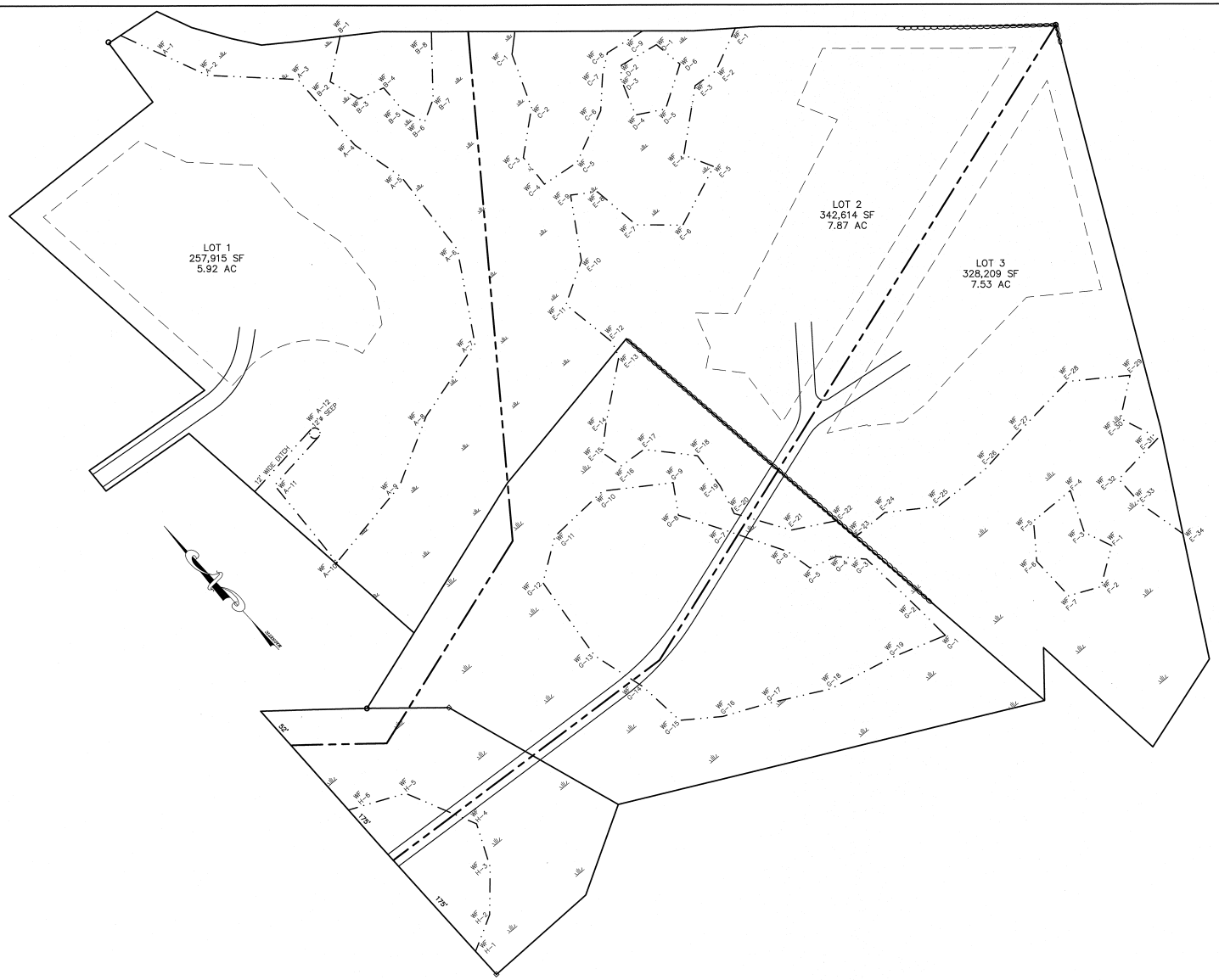
Notes



SITE NOTES:

1. THE INTENT OF THIS PLAN IS TO ADJUST THE LOT LINES ON THESE PARCELS IN ORDER TO CONSTRUCT 3 RESIDENTIAL BUILDINGS.

2. ZONING DISTRICT: R-1
   LOT AREA MINIMUM = 87,120 SF
   LOT FRONTAGE MINIMUM = 175'
   BACK LOT FRONTAGE MINIMUM = 40'
   BUILDING SETBACKS (MINIMUM):
   FRONT SETBACK = 30'
   SIDE SETBACK = 25'
   REAR SETBACK = 25'
   WETLAND SETBACK = 100'
   MAX. SEALED SURFACE = 85%

   DUPLEX REQUIREMENTS:
   LOT AREA MINIMUM = 100,000 SF
   MINIMUM UPLAND AREA = 60,000 SF
   BACKLOT DUPLEX REQUIREMENTS:
   LOT AREA MINIMUM = 150,000 SF
   MINIMUM UPLAND AREA = 90,000 SF

GRAPHIC SCALE

60 0 30 60 120 240

(IN FEET)
1 inch = 60 ft.

F:\Land Projects 3\08273-North-Hampton-Post-Rd-Sanderson\dwg\08273-Concept.dwg 1/21/2014 9:26:12 AM EST

Design: JAC	Draft: LAZ	Date: 01/21/14
Checked: JAC	Scale: 1"=60'	Project No.:08273
Drawing Name: 08273-CONCEPT.dwg		

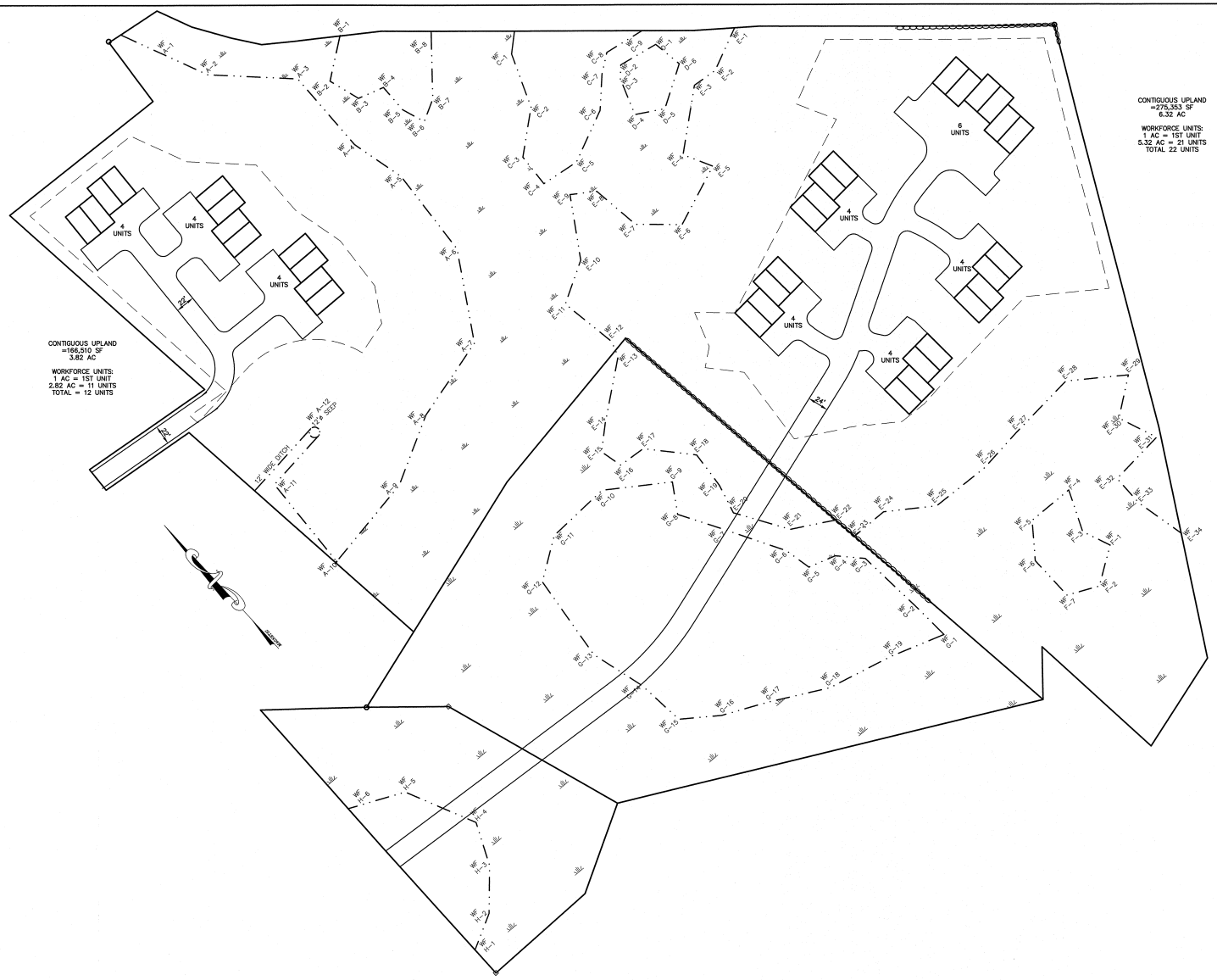
THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM JONES & BEACH ENGINEERS, INC. (JBE). ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO JBE.

REV.	DATE	REVISION	BY
0	---	ISSUED FOR REVIEW	---

Designed and Produced in NH
Jones & Beach Engineers, Inc.
85 Portsmouth Ave.
PO Box 219
Stratham, NH 03885
Civil Engineering Services
603-772-4746
FAX: 603-772-0227
E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	CONCEPT PLAN 1 TAX MAP 8, LOTS 100, 101 & 104
Project:	POST ROAD SUBDIVISION POST ROAD, NORTH HAMPTON, NH
Owner of Record:	CLIENT NAME CLIENT ADDRESS

DRAWING No.
C2
SHEET 1 OF 1
JBE PROJECT NO. 08273



SITE NOTES:

THE INTENT OF THIS PLAN IS TO ADJUST THE LOT LINES ON THESE PARCELS IN ORDER TO CONSTRUCT WORKFORCE HOUSING.

1. ZONING DISTRICT: R-1
   LOT AREA MINIMUM =1 AC FOR FIRST UNIT PLUS
   1/4 AC FOR EACH ADDITIONAL UNIT
   LOT FRONTAGE MINIMUM = 100'
   BACK LOT FRONTAGE MINIMUM = 40'
   BUILDING SETBACKS (MINIMUM):
   FRONT SETBACK = 15'
   SIDE SETBACK = 15'
   REAR SETBACK = 15'
   WETLAND SETBACK = 100'
   MAX. SEALED SURFACE = 85%

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0	---	ISSUED FOR REVIEW	---

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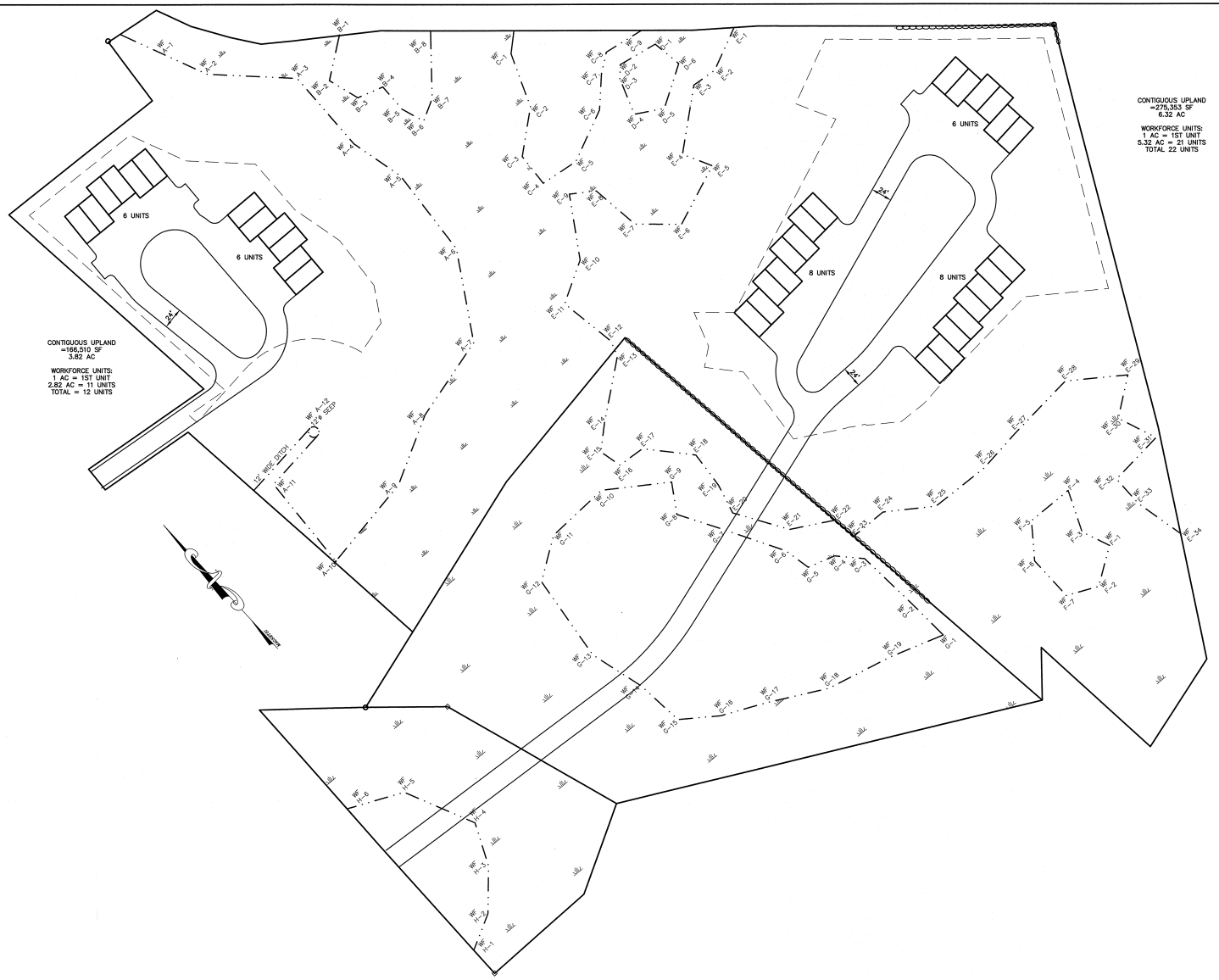
Jones & Beach Engineers, Inc.
85 Portsmouth Ave.
PO Box 219
Stratham, NH 03885
Civil Engineering Services
603-772-4746
FAX: 603-772-0227
E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	CONCEPT PLAN 2 TAX MAP 8, LOTS 100, 101 & 104
Project:	POST ROAD SUBDIVISION POST ROAD, NORTH HAMPTON, NH
Owner of Record:	CLIENT NAME CLIENT ADDRESS

DRAWING No.
C2
SHEET 1 OF 1
JBE PROJECT NO. 08273



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   BUILDING SETBACKS (MINIMUM):
   FRONT SETBACK = 15'
   SIDE SETBACK = 15'
   REAR SETBACK = 15'
   WETLAND SETBACK = 100'
   MAX. SEALED SURFACE = 85%

GRAPHIC SCALE

60 0 30 60 120 240

(IN FEET)

1 inch = 60 ft.

F:\Land Projects 3\08273-North-Hampton-Post-Rd-Sanderson\dwg\08273-Concept.dwg 1/21/2014 9:26:12 AM EST

Design: JAC	Draft: LAZ	Date: 01/21/14
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REV.	DATE	REVISION	BY
0	---	ISSUED FOR REVIEW	---

Designed and Produced in NH
J/B Jones & Beach Engineers, Inc.
85 Portsmouth Ave.
PO Box 219
Stratham, NH 03885
Civil Engineering Services
603-772-4746
FAX: 603-772-0227
E-MAIL: JBE@JONESANDBEACH.COM

Plan Name:	CONCEPT PLAN 3 TAX MAP 8, LOTS 100, 101 & 104
Project:	POST ROAD SUBDIVISION POST ROAD, NORTH HAMPTON, NH
Owner of Record:	CLIENT NAME CLIENT ADDRESS

DRAWING No.

C3

SHEET 1 OF 1

JBE PROJECT NO. 08273

203.2 Lots which abut on more than one street shall provide the required front yards along every street. *3/12/1968

203.3 Any lot of record existing at the effective date of this ordinance shall not be merged with any adjoining lot other than by a lot merger as authorized by RSA 674:39-a. Lots merged by municipal action for assessing or taxation purposes prior to the effective date of this ordinance and without the consent of the property owner shall not be deemed to have been merged for the purposes of this Zoning Ordinance, the Town's Subdivision Regulations, or Site Plan Review Regulations.

203.4

A. Any lot of record existing on March 5, 1974 may be used for the erection of a structure for a purpose that conforms to the use regulations of the district in which it is located even though the lot does not meet the minimum area requirements for said district. While one acre of contiguous upland is not required before a building permit may be issued for said lot, all such lots, shall, however, have minimum frontage, as specified in the table below, and shall meet setback requirements for said district, including wetland buffers as provided in Section 501, and setbacks for a state approved septic system plan, and for a well for potable water where public water service is not available.*3/10/2009, *5/11/2010

Table of Frontage Requirements

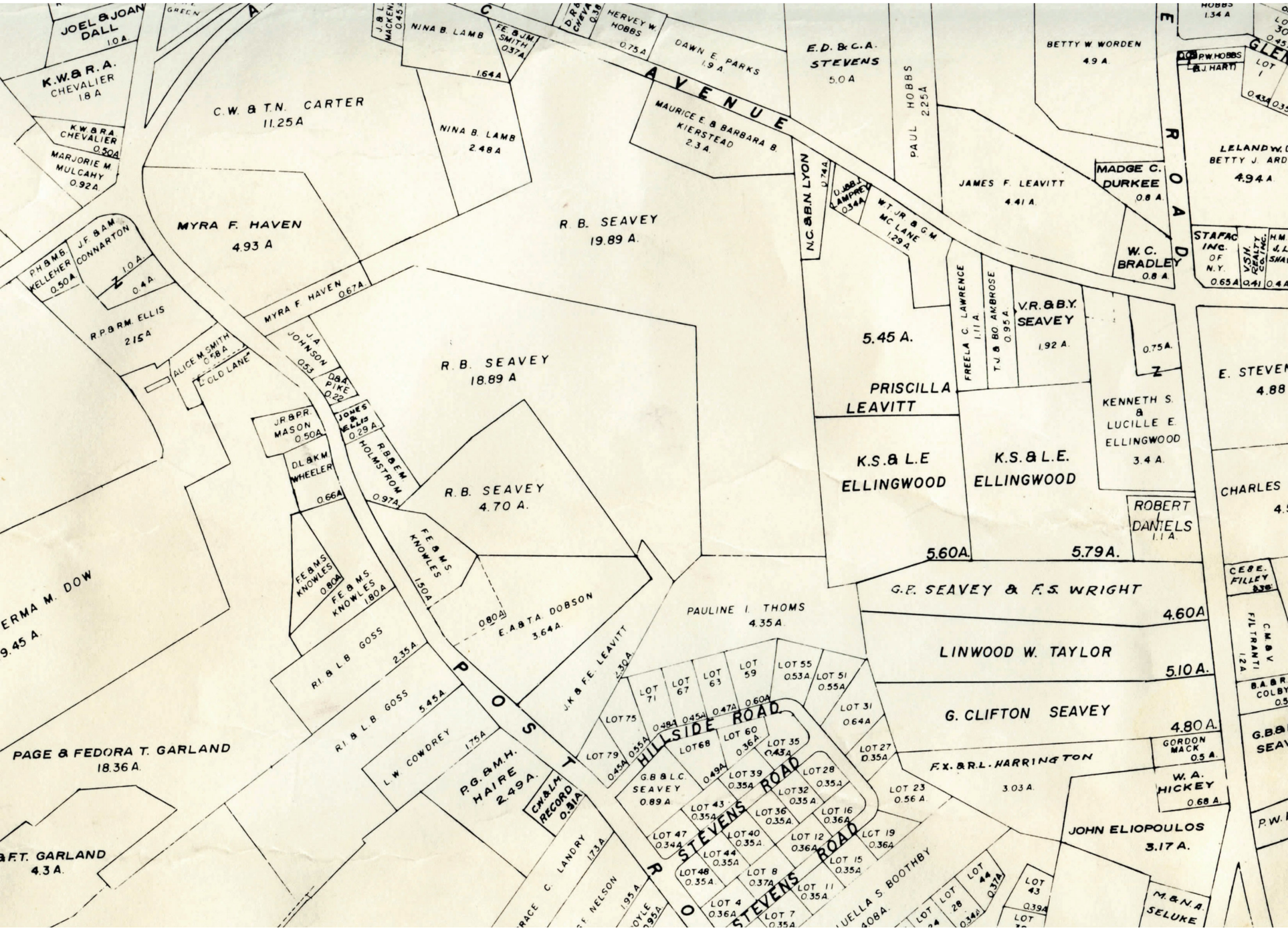
Lot Size (acres)	Minimum Frontage
>/= 3.0	40 feet
<3.0 & >/= 2.5	50 feet
<2.5 & >/= 2.0	60 feet
<2.0 & >/= 1.5	70 feet
<1.5 & >/= 1.0	80 feet
<1.0 & >/= 0.5	90 feet
<0.5	100 feet

B. For existing lots of record that do not meet minimum frontage requirements per table in 203.4.A and have existing legal structures, an accessory structure may be erected with a building permit provided that the accessory structure meets requirements of applicable sections of the Town of North Hampton Zoning Ordinance. *3/10/2020

203.5 Industrial-Business structures or uses shall not be located or conducted closer to any lot line of any other lot in any "R" District than 35 feet. *3/5/1974

203.6 Duplex Requirements: The minimum lot size for a duplex shall be 100,000 square feet and the lot shall contain a minimum of 60,000 square feet of contiguous non-wetland area. No additional frontage is required, other than that specified in Section 203.1-12. Any proposed duplex on an existing lot of record must have 175 feet of frontage in the R-1 district, and 250 feet of frontage in the I-B/R. The maximum number of bedrooms allowed per unit is three (3). Each dwelling unit shall have a minimum living area of 720 square feet. An adequate septic system built to standards of the N.H. Department of Environmental Services (NH DES) must be provided. *3/10/1992, 3/11/2014, 3/10/2015

203.7 Multiple Dwelling Lot and Yard Requirements: A Multiple Dwelling shall be located only in the I-B/R Industrial Business Residential District and shall be constructed only on a lot which meets all the lot and yard requirements for the location of structures in the I-B/R Industrial Business Residential District as set forth in Section 203.1-12. In addition, a multiple dwelling building lot must contain two


JOEL & JOAN DALL 1.0 A.
K.W. & R.A. CHEVALIER 1.8 A.
K.W. & R.A. CHEVALIER 0.50A.
MARJORIE M. MULCAHY 0.92A.
C.W. & T.N. CARTER 11.25A.
NINA B. LAMB 1.64A.
FE & J.M. SMITH 0.37A.
HERVEY W. HOBBS 0.75A.
DAWN E. PARKS 1.9 A.
E.D. & C.A. STEVENS 5.0 A.
NINA B. LAMB 2.48A.
MAURICE E. & BARBARA B. KIERSTEAD 2.3A.
PAUL HOBBS 2.25A.
BETTY W. WORDEN 4.9 A.
P.W. HOBBS & J. HART
LOT 1
LELAND W. & BETTY J. ARD 4.94 A.
MYRA F. HAVEN 4.93 A.
R. B. SEAVEY 19.89 A.
N.C. & B.N. LYON 0.74A.
O. & B.J. LAMPREE 0.54A.
W.T. JR & G.M. MC LANE 1.29 A.
JAMES F. LEAVITT 4.41 A.
MADGE C. DURKEE 0.8 A.
W.C. BRADLEY 0.8 A.
STAFAC INC. OF N.Y. 0.65A.
V.S.H. REALTY CORP. 0.41
P.H. & M.B. KELLEHER 0.50A.
J.F. & A.M. CONNARTON 1.0 A.
0.4A.
MYRA F. HAVEN 0.67A.
R.P. & R.M. ELLIS 2.15A.
ALICE M. SMITH 0.68A.
OLD LANE
J.A. JOHNSON 0.53
D. & A. PIKE 0.22
R. B. SEAVEY 18.89 A.
FREELA C. LAWRENCE 1.11 A.
T.J. & B.O. AMBROSE 0.95A.
V.R. & B.Y. SEAVEY 1.92 A.
0.75A.
5.45 A.
PRISCILLA LEAVITT
KENNETH S. & LUCILLE E. ELLINGWOOD 3.4 A.
E. STEVEN 4.88
J.R. & P.R. MASON 0.50A.
JONES & ELLIS 0.29 A.
D.L. & K.M. WHEELER 0.66A.
R.B. & E.M. HOLMSTROM 0.97A.
R. B. SEAVEY 4.70 A.
K.S. & L.E. ELLINGWOOD
K.S. & L.E. ELLINGWOOD
ROBERT DANIELS 1.1 A.
5.60A.
5.79A.
CHARLES 4.
F.E. & M.S. KNOWLES 0.80A.
F.E. & M.S. KNOWLES 1.80A.
F.E. & M.S. KNOWLES 1.50A.
0.80A.
E. & T.A. DOBSON 3.64A.
PAULINE I. THOMS 4.35A.
G.P. SEAVEY & F.S. WRIGHT 4.60A
C.E. & E. FILLEY 0.70
LINWOOD W. TAYLOR 5.10A.
C.M. & V. FILTRANTI 1.2A
B.A. & R. COLBY 0.5
G. CLIFTON SEAVEY 4.80A.
G.B. & S. SEAV
ERMA M. DOW 9.45 A.
R.I. & L.B. GOSS 2.35A.
R.I. & L.B. GOSS 5.45A.
L.W. COWDREY 1.75A.
J.K. & F.E. LEAVITT 4.30A.
HILLSIDE ROAD
LOT 71
LOT 67
LOT 63
LOT 59
LOT 55 0.53A
LOT 51 0.55A
LOT 31 0.64A
LOT 75
LOT 79 0.45A
LOT 68
LOT 60 0.36A
LOT 35 0.43A
LOT 27 0.35A
G.B. & L.C. SEAVEY 0.89A
LOT 39 0.35A
LOT 28 0.35A
LOT 32 0.35A
LOT 43 0.35A
LOT 36 0.35A
LOT 16 0.36A
LOT 23 0.56 A.
F.X. & R.L. HARRINGTON 3.03 A.
GORDON MACK 0.5 A.
W.A. HICKEY 0.68 A.
STEVENS ROAD
LOT 47 0.34A
LOT 40 0.35A
LOT 12 0.36A
LOT 19 0.36A
LOT 44 0.35A
LOT 15 0.35A
LOT 48 0.35A
LOT 8 0.37A
LOT 11 0.35A
JOHN ELIOPOULOS 3.17 A.
LOT 4 0.36A
LOT 7 0.35A
LOT 43 0.39A
LOT 44 0.37A
LOT 28 0.34A
M. & N.A. SELUKE
P.G. & M.H. HAIRE 2.49A.
C.W. & L.M. RECORD 0.31A.
GRACE C. LANDRY 1.73A.
E.F. NELSON 1.95 A.
LOYLE 0.95A.
LUELLA S. BOOTHBY 4.08A.
PAGE & FEDORA T. GARLAND 18.36 A.
B.F.T. GARLAND 4.3 A.
POST ROAD
AVENUE
ROAD

Town of North Hampton
Zoning Board of Adjustment

233 Atlantic Avenue – 2nd Floor
North Hampton, NH 03862
Tel 603.964.8650
Fax 603.964.1514

EXHIBIT 1

APPLICATION FOR RELIEF

Date: 09/30/21	CASE #
Applicant: Joseph Falzone	Phone Number: c/o 603-766-9102
Email: c/o tphoenix@hpgrlaw.com	
Address: c/o 127 Parrott Avenue, Portsmouth, NH 03801	
Owner of Property: David & Julie Sanderson, Trustees	Phone Number: 603-702-2320
Email: dsanderson@convenientmd.com	
Address: 3 Olivia Lane, Kensington, NH 03833	
Tax Map/Lot #: 8/104	Zoning District: R1
Location of Property: 0 Post Road, Map 8, Lot 104	

Relief Sought

[x]	Petition for Administrative Appeal (Form 2) [RSA 674:33, 676:5] *
[x]	Petition for Variance from Zoning Ordinance (Form 3) [RSA674:33]
[ ]	Petition for Special Exception (Form 4) [RSA 674:33]
[ ]	Petition for Equitable Waiver (Form 5) [RSA 674:33-a]
[ ]	Other Request for Relief (Form 1) [any RSA]

*** Written documentation of the Decision from which the Appeal is being taken must accompany this Application.**

Describe all Relief Requested, Cite specific Zoning Ordinance(s)

Use additional pages as necessary

1. Admin. Appeal-31.8 feet of frontage is "grandfathered". NHZO§202.9.
2. Frontage variance 31.8 feet frontage where 40 feet is required. NHZO§203.4.

Signed: RT Phoenix counsel
Applicant
Name (print): RT Phoenix
Capacity/Title: Counsel

Signed: RT Phoenix counsel
Property Owner
Name (print): RT Phoenix
Capacity/Title: Counsel

Initial acknowledgement of receipt

[x] Application Instructions RTP

[x] ZBA Rules of Procedure RTP

Estimated time to present petition: 15 min.

Payment Amt. _____ **Received by** _____ **Date:** _____

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EXHIBIT 2

North Hampton Zoning Board of Adjustment

PETITION FOR ADMINISTRATIVE APPEAL

Property Owner: David & Julie Sanderson, Trustees, Jarib M. Sanderson Family Trust

Applicant (if different): Joseph Falzone

Description of Property: North Hampton Tax Map #: 8 Lot # 104

NOTE: This form can be used to appeal a Planning Board decision, Building Code enforcement, Building Permit denial, or any decision not related to a Variance, Special Exception or Equitable Waiver of Dimension Requirement.

The application is not complete unless all required statements have been made.
(Additional information may be supplied on separate sheets if the space provided is inadequate.)

Administrative Appeal: _____

Number: _____ Date: 9/30/21

Zoning Ordinance/Building Code in question: article _____ / section _____ of North Hampton Zoning Ordinance

and relating to the interpretation and enforcement of the provisions of the zoning ordinance.

Decision of the administrative/enforcement officer to be reviewed (attach copy):

31.5 feet of frontage requires variance from NHZO§202.4. Applicant posits that the frontage is "grandfathered". See attached email.

A. Existing Variances or Special Exceptions:

Are there any existing Variances or Special Exceptions on the property?

☐ Yes ☒ No If yes, please explain when and why such was required:

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B. Previous Denials:

Has an application for a Variance or Special Exception on this property ever been denied? (If you are unsure of the answer to this question, please ask the Planning and Zoning Administrator) ☐ Yes ☒ No If yes, please explain when and why:

C. Material Differences if Previously Denied:

If you were denied previously, state how this particular application and use proposed is now materially different from that which was denied:

N/A

CERTIFICATION: I hereby certify that:

Initials	
x	I have read the instructions for completing this application.
x	I have completed this application as completely and fully as possible.
x	I have completed the checklist provided in the instructions and have attached all evidence, including plans or sketches that I intend to discuss at the Public Hearing on the application.
x	I understand that if this application is incomplete, it will be returned within a reasonable time following its submission, and that this may delay the scheduling of a Public Hearing.
x	I understand that I must appear in person at the Public Hearing to present and discuss this application. If I cannot appear in person, I will notify the Chair of the ZBA, in writing, designating the name of the individual who will appear for me.
x	The ZBA has permission to enter the property in order to conduct scheduled site walks upon reasonable prior notice.

Applicant's Signature: _____ **Date:** _____

Agent or Legal Counsel's Signature: [signature] **Date:** 9/30/21

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Tim Phoenix

Subject: FW: Post Road frontage
Attachments: ZBA Application Authorization.pdf

Tim

From: Rick Milner <rmilner@northhampton-nh.gov>
Sent: Wednesday, September 29, 2021 2:39 PM
To: Tim Phoenix <TPhoenix@hpgrlaw.com>
Subject: RE: Post Road frontage

Hi Tim,
The 40 foot frontage figure in Section **203.4** applies for the Map/Lot 8-104 property. I believe you have a typo in your reference to the 40 foot requirement below. Also, something that I noticed is that Mr. Falzone does not own the property according to town records. According to tax card records, the Sanderson Trust (Julee and David, trustees) owns the property. Please make sure that your application includes the attached authorization form for you and Mr. Falzone from current property owners with original signatures and notary stamps.

Thank you,
Rick Milner
Planning & Zoning Administrator
Town of North Hampton, NH
rmilner@northhampton-nh.gov
603-964-8650

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EXHIBIT 3

North Hampton Zoning Board of Adjustment

PETITION FOR VARIANCE FROM ZONING ORDINANCE

Please provide complete, detailed answers to all questions. Use additional pages as necessary.

Property Owner: David & Julie Sanderson, Trustees, Jarib M. Sanderson Family Trust

Applicant (if different): Joseph Falzone

Description of Property: North Hampton Tax Map #: 8 Lot # 104

A. **Existing Variances or Special Exceptions:**
Are there any existing Variances or Special Exceptions on the property?
☐ Yes ☐ No If yes, please explain when and why such was required:

B. **Previous Denials:**
Has an application for a Variance or Special Exception on this property ever been denied? (If you are unsure of the answer to this question, please ask the Planning and Zoning Administrator) ☐ Yes ☐ No If yes, please explain when and why:

C. **Material Differences if Previously Denied:** If you were denied previously, state how this particular application and use proposed is now materially different from that which was denied:

D. Proposed Use:
Please explain why you need a variance: Section 203.4 to permit +/- 31.2' frontage where 40' is required.

E. Applicable Zoning Ordinance Provision:
This application is for Variance to the following Ordinance Article(s) and Section(s):

F. Additional Actions:

1. Does your proposed use also require Subdivision Approval by the Planning Board? ☐ Yes ☒ No
2. Does your proposed use also require a Site Plan Approval by the Planning Board? ☒ Yes ☐ No
3. Is this application required as a prerequisite to, or otherwise necessary for, a Site Plan Approval by the Planning Board? ☐ Yes ☐ No

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G. Criteria your application must meet for a Variance:

A variance is an authorization, which may be granted under unique circumstances to use your property in a way that is not permitted under the strict terms of the North Hampton Zoning Ordinance. The Board may authorize a variance from the terms of the Ordinance if:

1. The variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. Substantial justice is done;
4. The values of surrounding properties are not diminished; and
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
   a. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area: (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (ii) The proposed use is a reasonable one.
   b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance. (see RSA 674:33)

The applicant has the burden of proof. Applicants should be prepared to present information pertinent to the variance being requested. To obtain a legally granted variance, you must demonstrate/prove that your proposal satisfies ALL five of the variance criteria.

CERTIFICATION: I hereby certify that:

RTP I have read the instructions for completing this application for Variance.

RTP I have completed this application as completely and fully as possible.

RTP I have completed the checklist provided in the instructions and have attached all evidence, including plans or sketches that I intend to discuss at the Public Hearing on the application.

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RTP I understand that if this application is incomplete, it will be returned within a reasonable time following its submission, and that this may delay the scheduling of a Public Hearing.

RTP I understand that I must appear in person at the Public Hearing to present and discuss this application. If I cannot appear in person, I will notify the Chair of the ZBA, in writing, designating the name of the individual who will appear for me.

RTP The ZBA has permission to enter the property in order to conduct scheduled site walks upon reasonable prior notice.

Initials

Applicant's Signature: See Owner's Authorization **Date:** _____

Agent or Legal Counsel's Signature: _____ **Date:** _____

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Town of North Hampton
Zoning Board of Adjustment
233 Atlantic Avenue – 2nd Floor
North Hampton, NH 03862
Tel 603.964.8650
Fax 603.964.1514

Case # _____
For ZBA use only

INCLUSION CHECKLIST

Applicant: Joseph Falzone
Address: 0 Post Road
Map/Lot: 8/104

Zoning Board Meeting Date 10/26/21 Deadline Date 9/30/21

The following items are required on or before the Deadline date for the Zoning Board of Adjustment meetings:

x 3 sets of Avery 5160 address labels and separate list with names and addresses for all required notifications per NH RSA.

x 13 copies of completed application and site plan, to include but not limited to:

x	Lot lines	x	Size of property
x	Existing structures	x	Total frontage
x	Septic system	x	Wetlands and buffers
x	Leach field	x	Setbacks
x	Well locations	x	Easements
N/A	Dimensional measurements of proposed structures, including length, depth, height	N/A	Architectural plans and renderings of proposed structures

x Explanation of Special Exception, Variance, or Requested Relief.

N/A Prior actions by the Board shall be cited and copies of decisions or orders attached.

x Property Deeds (include any easements and/or encumbrances).

x Application must have original owner signature or letter of authorization

x All fees paid ($175.00 application fee, and $10.00 per legal notice).

x Application submitted to office by 2:00pm on the deadline date.

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Town of North Hampton – Zoning Board of Adjustment

ZBA VARIANCE WORK SHEET

Applicant: Joseph Falzone
Address: 0 Post Road Map/Lot: 8/104

The purpose of this form is to show consideration of all criteria. Therefore, after reviewing the petition and after hearing all of the evidence, the Board shall consider the following criteria before making a motion to approve or disapprove the request. Please provide complete answers explaining how the variance request satisfies each of the following criteria. Use additional pages as necessary.

1. The variance will not be contrary to the public interest.

See Memorandum and Exhibits submitted herewith.

2. The spirit of the ordinance is observed.

3. Substantial justice is done.

4. The values of surrounding properties are not diminished.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

a. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area: (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (ii) The proposed use is a reasonable one.
b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Please be aware that the burden of proof lies with the Applicant.

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Tim Phoenix

EXHIBIT 4

From: Joe Falzone <jfalzone@weinvestinland.com>
Sent: Monday, September 27, 2021 12:05 PM
To: Tim Phoenix
Subject: Authorization for North Hampton

I, Joseph Falzone applicant with respect to a project at Post Road, Tax Map 8, Lot 104, hereby authorize Hoefle, Phoenix, Gormley, & Roberts, PLLC to represent my interests before any North Hampton employee, department, board or commission.

Thank You,
JOSEPH FALZONE

Joseph Falzone
7B Emery Lane
Stratham, NH 03885
(O) 603-772-9400 (C) 617-510-6565 (F) 603-772-8999

jfalzone@weinvestinland.com

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Tim Phoenix

Subject: FW: Northhampton-nh houselot issues

From: David Sanderson [mailto:DSanderson@convenientmd.com]
Sent: Tuesday, September 28, 2021 1:34 PM
To: Joe Falzone
Subject: FW: Northhampton-nh houselot issues

I, David Sanderson land owner with respect to a project at Post Road, Tax Map 8, Lot 104, hereby authorize Hoefle, Phoenix, Gormley, & Roberts, PLLC to represent my interests before any North Hampton employee, department, board or commission.

Dave Sanderson

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Town of North Hampton

Zoning Board of Adjustment

Application Authorization

I/We David Sanderson Trustee
(Property Owner*)

hereby authorize Hoefle Phoenix Gormley & Roberts PLLC
Sce Future 5 @ 127 Russell Ave. Portsmouth NH 03901
(Applicant Name and Address)

to appear before the Zoning Board of Adjustment on my/our behalf with a
Petition for Administrative Appeal + Pet for Variance Application
(type of application)

for 0 Post Road Tax Map 8 Lot 104, Residential Lot
(project name and description)

I/We David Sanderson Trustee
(Property Owner*)

am/are aware of and understand the instructions, procedures, and conditions associated with the Zoning Board of Adjustment application, including, but not limited to, granting permission to Zoning Board of Adjustment members to enter the property in order to conduct scheduled site walks upon reasonable prior notice.

Property location/address: 0 Post Road Tax Map 8 Lot 104

Tax map and lot number: 8 - 104 -

Zoning District: R1

David Sanderson 9/30/21
Property Owner* Signature Date

Notary Public Signature Date

*All listed owners of a property must sign an application authorization form.

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Town of North Hampton

Zoning Board of Adjustment

Application Authorization

I/We Joseph Falzone - Applicant
(Property Owner*)

hereby authorize Hoefle Phoenix Gormley & Roberts
Joseph Falzone c/o 127 Parrott Ave Portsmouth NH 03801
(Applicant Name and Address)

to appear before the Zoning Board of Adjustment on my/our behalf with a

Administrative Appeal, Variance Application
(type of application)

for 0 Post Road Tax Map 8 Lot 104.
(project name and description)

I/We submitted Jeposit letter
(Property Owner*)

am/are aware of and understand the instructions, procedures, and conditions associated with the Zoning Board of Adjustment application, including, but not limited to, granting permission to Zoning Board of Adjustment members to enter the property in order to conduct scheduled site walks upon reasonable prior notice.

Property location/address: 0 Post Road

Tax map and lot number: 8 - 104 -

Zoning District: R1

Joseph Falzone
Property Owner* Signature
Applicant

9.30.21
Date

Notary Public Signature

Date

*All listed owners of a property must sign an application authorization form.

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EXHIBIT
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MEMORANDUM

TO: North Hampton Zoning Board of Adjustment ("ZBA")
FROM: R. Timothy Phoenix, Esquire
Monica F. Kieser, Esquire
DATE: September 30, 2021
Re: David & Julie Sanderson, Trustees, Owner
Joseph Falzone, Applicant
0 Post Road, North Hampton
Tax Map 8, Lot 104

On behalf of Applicant Joseph Falzone ("Falzone"), we are pleased to submit this Memorandum in support of an Administrative Appeal and Zoning Relief to be considered by the North Hampton Zoning Board of Adjustment ("ZBA") at its October 26, 2021 Meeting.

I. EXHIBITS

A. ZBA Plot Plan-by David W. Vincent, LLS.
B. Septic Plan -by Nichols, Environmental, LLC. Abutter/Neighbor letters of support.
C. Relevant Deeds:
   1. 1951 deed. Leavitt to Seavey, 19.42 acres, RCRD Book 1209, Page 044-this is the original deed of the parcel of which the subject parcel is a part.
   2. 1952 deed Seavey to Carter book 1382, page 320-this deed references the right foot driveway, and is the parcel to the right of the frontage as depicted on exhibit A
   3. 1956 deed Seavey to Brown book 1410, page 317-this is the deed for the parcel to the left of the frontage depicted on exhibit a
   4. 1986 deed Seavey to Sanderson book 2654, page 1611-this is the deed to the original 19.42 acre parcel excepting previously conveyed parcels(the above referenced 1952 and 1956 deeds)
   5. 2018 deed Sanderson trustees to Sanderson trustees book 5887, page 0258-this is the current deed.
D. 2021 North Hampton Zoning Ordinance excerpts.
Excerpts from 2021 zoning ordinance sections 101, 203.4, 202.9 A

E. Site Photographs.
F. North Hampton Tax Map 8.
G. NHRSA 674:39-a.
H. Excerpt from Office of Strategic Initiatives, New Conforming Uses https://www.nh.gov/osi/resource-library/land-use/index.htm, with respect to zoning ordinance, "Savings clause ".

II. PROPERTY/PROJECT

0 Post Road, Tax Map 8, Lot 104 is a 639,460 square foot (14.68 acre) undeveloped residentially zoned lot with 31.8 feet of frontage on Post Road created no later than 1956. The lot

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is burdened by significant wetlands and associated buffers. Typically, a 100 foot wetland buffer would apply; however, since 100 feet leaves less than 16,000 s.f. of available upland, a 50 foot buffer applies. NHZO§401.6.B.2 **(See Exhibit B)**. The proposed house and associated additional improvements, including a swimming pool and septic system, meet the yard setback, coverage and wetland buffer requirements. 2.8 +/- acres of contiguous upland in the area where the home is to be built complies with NHZO § 203.16.

III. RELIEF REQUIRED

1. Administrative appeal - 31.8 feet of frontage is a prior nonconforming condition pursuant to NHZO§202.9A., or in the alternative;
2. Variance -to permit 31.8 feet of frontage where 40 feet is required pursuant to NHZO section 203.4.

IV. ADMINISTRATIVE APPEAL

Premise:

The 31.8 foot frontage for the subject lot is a prior nonconforming dimension, entitled to "grandfathered" status.

Analysis:

Analysis starts with the original 1951 source deed **(Exhibit C1)** which created the parcel of which the subject parcel is a part. In 1952, owner Seavey deeded to Carter the parcel on the right of the driveway/frontage (hereafter "frontage"). **(see Exhibit A)** referencing the reserved 30 foot driveway. **Exhibit C2**. In 1956, Seavey deeded to Brown the parcel to the left of the driveway **(Exhibit C3)**, creating the existing 30 foot 'driveway" frontage (31.8 based upon modern survey) almost 6 decades ago.

NHZO§202.9A. provides:

> all uses existing at the time of the adoption of this ordinance, or during the year preceding its adoption, in the rural zoning district, of any buildings or premises may continue without restriction. (Emphasis added)

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This section of the ordinance is a "savings clause" as identified in the excerpt from Office of Strategic Initiative (**Exhibit K**) provided to the undersigned by the Planning and Zoning Administrator. As Exhibit K notes, "these clauses exempt pre-existing lots from later-enacted frontage and/or lot size requirements…. (Emphasis added). If there is a savings clause, then "the owner can exercise whatever rights that clause gives the owners of substandard lots." Section 202.9A addresses the use of "any buildings or premises". Since buildings is set forth distinctly from premises, it must follow that premises means, or includes the land and thus the frontage.

In summary, since the 31.8 foot frontage was created in 1956, long prior to the 2009 passage of NHZO 203.4 requiring a minimum 40 foot frontage, [1] it thus, "may continue without restriction" NHZO§ 202.9A.

V. VARIANCE CRITERIA

1. **The variances will not be contrary to the public interest.**
2. **The spirit of the ordinance is observed.**

The first step in the ZBA's analysis is to determine whether granting a variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives." *Id.* "Mere conflict with the zoning ordinance is not enough." *Id.*

The North Hampton Zoning Ordinance ("NHZO") was enacted generally "for the purpose of promoting the health, safety, morals, and the general welfare of the community." NHZO §101. The requested frontage relief is consistent with these purposes. The 31.8 foot frontage is essentially 80% of the Section 202.4 ordinance requirement of 40 feet for lots in excess of three acres. The frontage has existed and provided access to the lot since at least 1956, long prior to the 2009 passage of Section 202.4. Without a variance, the lot cannot be used for a permitted residential purpose and is rendered significantly less valuable, if not worthless.

[1] The Planning and Zoning Administrator confirms that NHZO§203.4 (40 feet minimum frontage) applies to this application. See email attached to Petition for Administrative Appeal.

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In considering whether a variance "in a marked degree conflicts with the ordinance such that they violate the ordinance's basic zoning objectives, *Malachy Glen*, supra, also held:

> One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality… . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

Aside from the lot and frontage existing for 65 years, the proposed home is set far back on the lot and will be virtually unnoticed by the general public. Abutting lot owners certainly have had actual or constructive notice that a home might one day be built on this residentially zoned lot. Clearly, granting a variance to allow 31.8 feet of frontage for the house lot, which changes nothing "on the ground." neither alters the essential character of the locality nor threatens the public health, safety or welfare.

3. **Granting the variance will not diminish surrounding property values.**

Residential use is permitted in the zone and thus on this lot. It was certainly conceivable that at some point a home could be built on the lot with its only access over the 31.8 feet of frontage. Since the home will be setback far from the road, it will essentially be unnoticed by the general public. These factors combine to demonstrate that a variance for essentially 80% of the 40 foot requirement which will permit a single house on a very large lot, will not diminish surrounding property values. Given the permitted residential use, and constructive notice the effect of the variance is built into their values, thus will not be reduced by a variance that does not change the existing condition.

4. **Denial of the variances results in an unnecessary hardship.**

a. Special conditions distinguish the property from others in the area.

The subject lot is large, significantly affected by wetland and associated buffers. The frontage has existed 65 years. There is nothing that can be done to change these facts. This creates special conditions.

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b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

Frontage requirements are intended to provide adequate space between properties and buildings, area for sightlines, to reduce overcrowding, and provide land area for stormwater treatment. Where the frontage has existed for 65 years, long before the 2009 passage of §202.4, and because there is neither harm to any neighbor, nor the general public, there is no reason to apply the strict ordinance requirements that will have the effect of prohibiting the owner and Falzone from the ability to develop a very large lot for a permitted residential use, in turn, rendering the property significantly less valuable, if not nearly worthless.

c. The proposed use is reasonable.

If the proposed use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005). The proposal is for a permitted residential use thus is reasonable

5. Substantial justice will be done by granting the variance.

If "there is no benefit to the public that would outweigh the hardship to the applicant this factor is satisfied". Harborside Associates, L.P. v. Parade Residence Hotel, L.L.C, 162 N.H. 508 (2011). That is, "any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice." Malachy Glen, supra at 109.

Property owners are constitutionally entitled to the use of their property as they each see fit. These rights are balanced against the effect upon the public and abutters upon granting variance relief. "The right to use and enjoy one's property is a fundamental right protected by both the State and Federal Constitutions." N.H. CONST. pt. I, arts. 2, 12; U.S. CONST. amends. V, XIV; Town of Chesterfield v. Brooks, 126 N.H. 64 (1985) at 68. Part I, Article 12 of the New Hampshire Constitution provides in part that "no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people." Thus, our State Constitutional protections limit the police power of the State and its municipalities in their regulation of the use of property. L. Grossman & Sons, Inc. v. Town of Gilford, 118 N.H. 480, 482 (1978). "Property" in the constitutional sense has been interpreted to mean not the tangible property itself, *but rather the right to possess, use, enjoy and dispose of it.* Burrows v. City of Keene, 121 N.H. 590, 597 (1981). (emphasis added).

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The Supreme Court has held that zoning ordinances must be reasonable, not arbitrary and must rest upon some ground of difference having fair and substantial relation to the object of the regulation. Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 731 (2001); Chesterfield at 69. To "determine whether an ordinance is arbitrary and unreasonable, the injury or loss to the landowner must be balanced against the gain to the public." Metzger v. Town of Brentwood, 117 N.H. 497, 501 (1977). In other words, [w]hen the restriction as applied to a particular piece of land is unnecessary to accomplish a legitimate public purpose or the gain to the public is slight but the harm to the citizen and his [or her] property is great, the exercise of the police power becomes arbitrary and unreasonable and this court will afford relief under the constitution of this state. Id. at 503. (emphasis added)

The frontage length has existed since at least 1956, decades before the 2009 passage of §202.4. Indeed, NHZO§202.9. A permits the frontage and area requirements as prior nonconforming uses/premises providing: "all uses existing at the time of the adoption of this ordinance, or during the year preceding its adoption, of any buildings or premises may be continued without restriction."(**See discussion, Section IV Administrative Appeal, p. 2,supra**). This very large lot and frontage existing condition fully supports a home, septic system, driveway and other features set back on the lot which will cause no harm whatsoever to wetlands, neighbors, or the general public including the nearest abutters all of whom have had either actual or constructive knowledge that this is a residentially zoned lot and that someday a home might be built upon it.

In summary, granting the required frontage variance to allow a home to be built on this lot will cause no harm whatsoever to the general public. Denial, however, will result in a catastrophic loss of use and value. Balancing the negligible, if any, effect upon the public from granting the variance against the constitutional right to develop the property for permitted residential use, it is crystal clear that denial is unnecessary to accomplish a legitimate public purpose and the harm to the general public is nonexistent, or extremely slight at best, while the harm to the Owner/Applicant is great. Metzger, supra. It follows that denial of the variance would be arbitrary and unreasonable, constituting a taking without just compensation, and denying the owner and applicant of their constitutional right to own and develop property.

VI. CONCLUSION

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For all of the reasons stated, Joseph Falzone respectfully requests that the ZBA grant the requested relief.

Respectfully Submitted,

Joseph Falzone, Applicant

By: R. Timothy Phoenix
Monica F. Kieser

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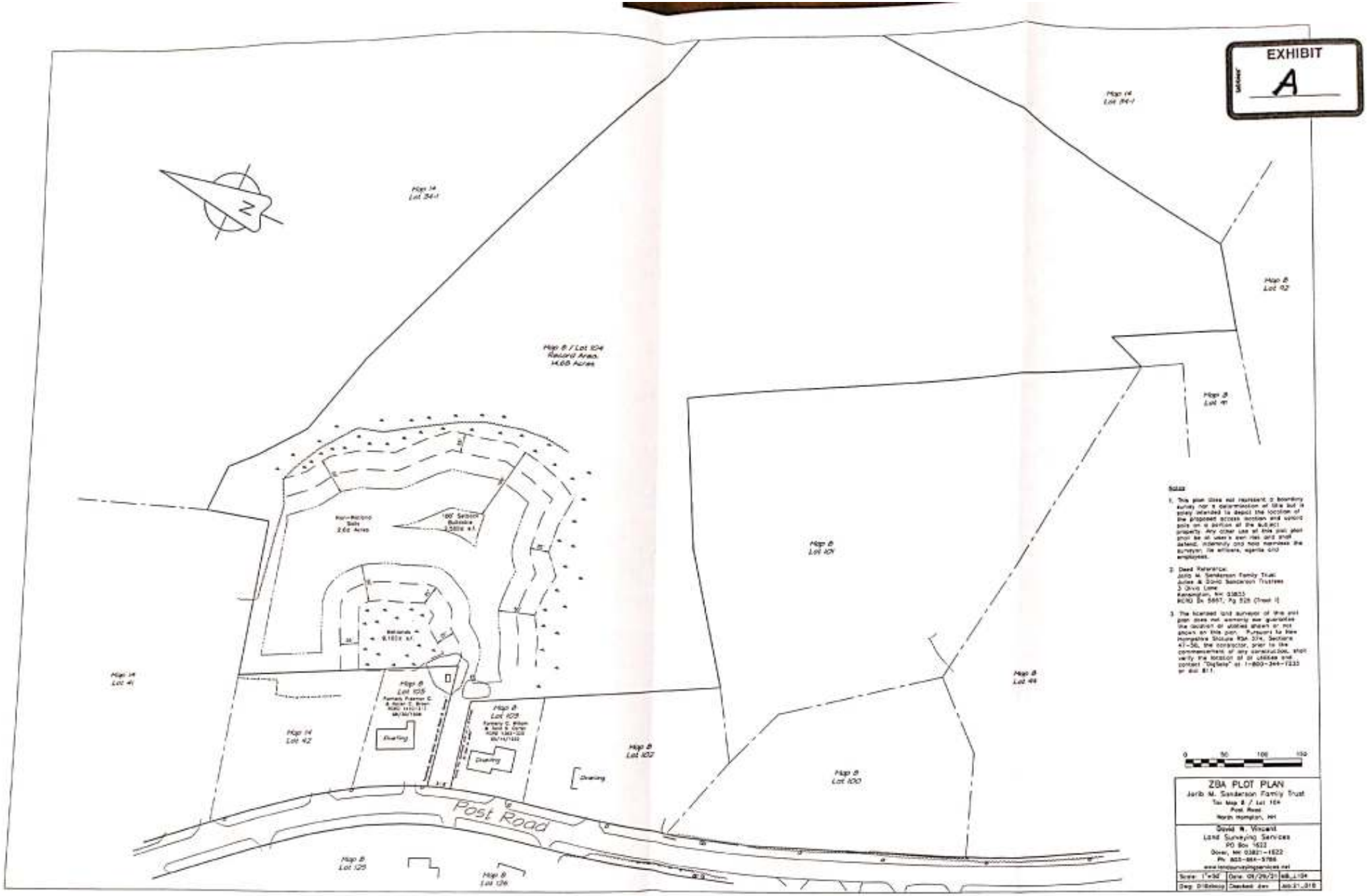
EXHIBIT
A


N
Map 14
Lot 54-1
Map 8 / Lot 104
Record Area:
14.68 Acres
Map 14
Lot 84-1
Map 8
Lot 92
Map 8
Lot 91
Map 8
Lot 101
Map 8
Lot 99
Map 8
Lot 100
Map 14
Lot 41
Map 14
Lot 42
Map 8
Lot 105
Map 8
Lot 103
Map 8
Lot 102
Map 8
Lot 125
Map 8
Lot 126
Post Road
Notes
1. This plan does not represent a boundary survey nor a determination of title but is solely intended to depict the location of the proposed access location and wetland soils on a portion of the subject property. Any other use of this plan shall be at user's own risk and shall defend, indemnify and hold harmless the surveyor, its officers, agents and employees.
2. Deed Reference:
Jarib M. Sanderson Family Trust
Jarlee & David Sanderson Trustees
3 Olivia Lane
Kensington, NH 03833
RCRD Bk 5667, Pg 525 (Tract I)
3. The licensed land surveyor of this plat does not expressly nor guarantee the location of utilities shown or not shown on this plan. Pursuant to New Hampshire Statute RSA 374, Sections 47-56, the contractor, prior to the commencement of any construction, shall verify the location of all utilities and contact "DigSafe" at 1-800-344-7233 or dial 811.
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ZBA PLOT PLAN
Jarib M. Sanderson Family Trust
Tax Map 8 / Lot 104
Post Road
North Hampton, NH
David W. Vincent
Land Surveying Services
PO Box 1522
Dover, NH 03821-1522
Ph. 603-664-5788
www.landsurveyingservices.net
Scale: 1"=50
Date: 09/29/21
8&L_L-104
Dwg: DVBishop
Checked: dwv
Job 21_018

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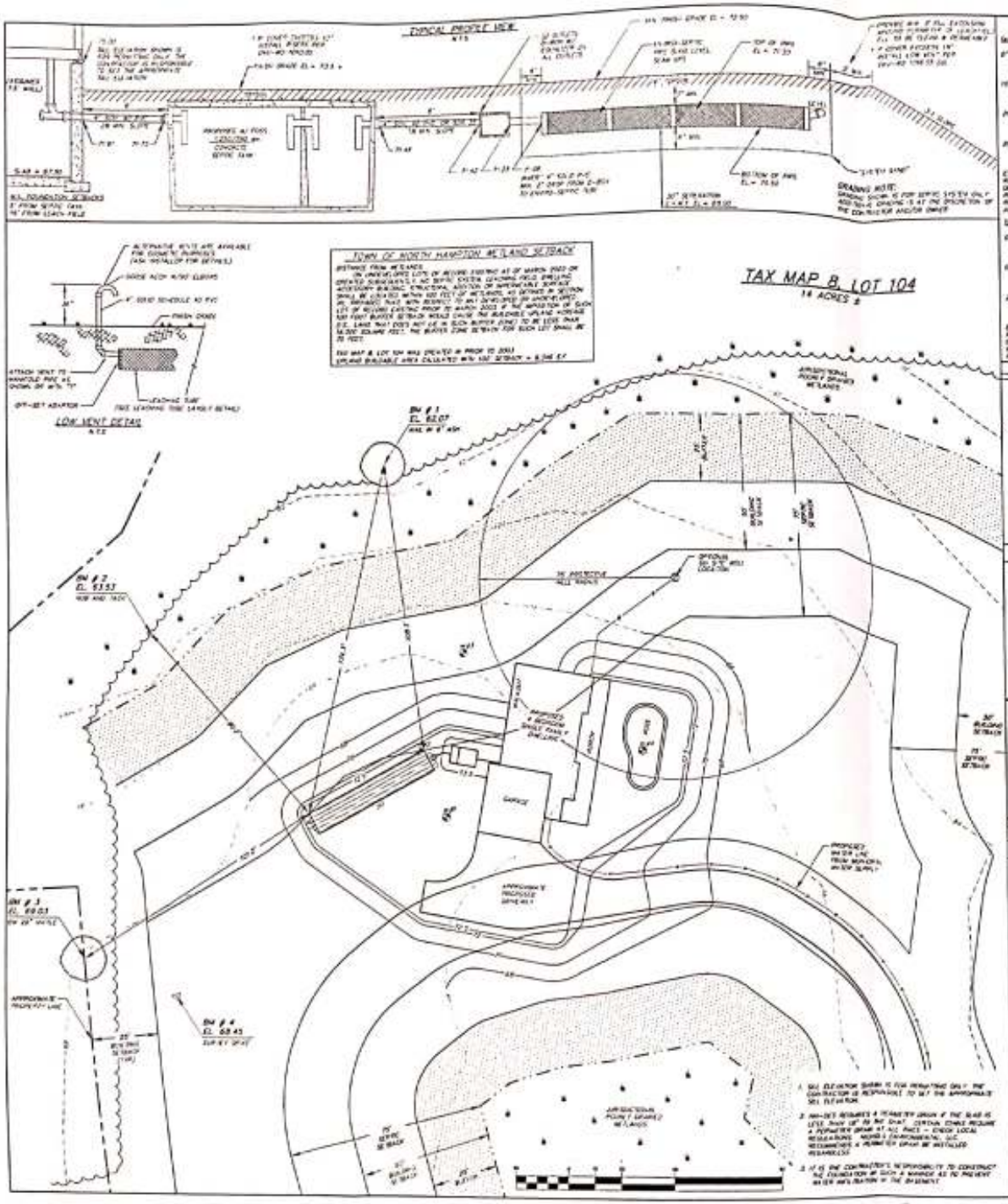

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EXHIBIT C. 1

DEED

Know all Men by These Presents

THAT I, James F. Leavitt of North Hampton, County of Rockingham, State of New Hampshire

In consideration of One Dollar and other valuable considerations

to me paid by Ralph B. Seavey of North Hampton, County of Rockingham, State of New Hampshire

the receipt whereof I do hereby acknowledge, have given, granted, bargained, sold and conveyed and do by these presents, give, grant, bargain, sell and convey unto the said Ralph B. Seavey, his

heirs and assigns, forever,

A certain tract of land in North Hampton, County of Rockingham, State of New Hampshire bounded and described as follows:

Beginning at an iron pipe in the wall on the Easterly side of Post Road at the Northwest corner of the land herein conveyed and running about North 88° East by land of Myra F. Raven and Judith A. (Raven) Johnson along the remnants of a wire fence a distance of five hundred and twenty-seven (527) feet to a corner at land of Ralph B. Seavey; thence turning and running about South 5½° East by land of said Seavey along a wire fence and stone wall a distance of nine hundred and thirty (930) feet to a corner at other land of said Seavey; thence turning and running about South 82° West by other land of said Seavey by a stone wall and fence a distance of seven hundred and forty-nine (749) feet to a corner at land of Elliot A. Stevens, said corner being center of a brook; thence turning and running about South 70° West by a wire fence a distance of one hundred and nineteen (119) feet to an iron pipe at land formerly of James F. Leavitt, now land of James K. Leavitt; thence turning and running about North 23° West by said James K. Leavitt land a distance of one hundred and sixty-eight feet (168) to an iron pipe; thence turning and running still by said James K. Leavitt land about South 40° West a distance of sixty (60) feet to an iron pipe in the center of a brook at land of Samuel P. Garland; thence turning and running about North 15° West by said Garland land along a fence a distance of six hundred and twenty-eight (628) feet to a corner; thence turning and running about South 87° West by a stone wall

8/1/94

1951

1382 320

DEED OF WARRANTY

I, Ralph B. Seavey

of North Hampton, Rockingham County, State of New Hampshire, for consideration paid, grant to C. William Carter and Todd N. Carter (husband and wife) as joint tenants with right of survivorship, both

of said North Hampton, Rockingham County, State of New Hampshire, with WARRANTY covenants,

(Description and incumbrances, if any)

A certain parcel of about one and 26/100 (1.26) acres of field land situated in said North Hampton, on the easterly side of the Post Road, so called, and bounded and described as follows:

Beginning at an iron pipe on the easterly side of the said Post Road, said pipe being 302 feet northerly from the center of the brook hereinafter described and at the northwesterly corner of the land herein described; and thence running about N 88° E along the southerly side of a driveway, 30 feet in width, on land retained by said Ralph B. Seavey, a distance of 115 feet to an iron pipe at other land of said Ralph B. Seavey; thence turning and running about S 10° E still by other land of said Seavey a distance of 338.5 feet to an iron pipe in the ditch at other land of said Seavey; thence turning and running about S 75° W by said Seavey land and following the center line of said ditch a distance of 100 feet to its intersection with a brook at land of Forrest E. Knowles (said intersection being marked by an iron pipe on the northerly bank); thence turning and following the center line of said brook by said Knowles' land about N 55 W a distance of 125 feet more or less to the easterly side of said Post Road; thence turning and running NORTHERLY by said Post Road a distance of 302 feet to the first-named iron pipe, the point of beginning.

Said thus-described parcel being bounded NORTHERLY, EASTERLY, and SOUTHERLY by other land of said Ralph B. Seavey, SOUTHWESTERLY on said brook and by said land of said Forrest E. Knowles, and WESTERLY on said Post Road.

Being a portion of the premises conveyed to me, the said Ralph B. Seavey by deed of James F. Leavitt dated May 8, 1951, recorded in Book 1209, Page 44, of the Rockingham County Registry of Deeds.

And I, Esther S. Seavey wife of said Grantor, release to said Grantee all rights of dower and homestead and other interest therein.

WITNESS our hands and seals this 14th day of May, 19 52.

Witness:

William P. Forbes
(to both)

Ralph B. Seavey
Esther S. Seavey

STATE OF NEW HAMPSHIRE
Rockingham, ss.

May 14, 1952

Ralph B. Seavey and Esther S. Seavey

Personally appeared and acknowledged the foregoing instrument to be their voluntary act and deed. Before me.

William P. Forbes
Justice of the Peace.
~~Notary Public~~

Received and recorded Jan. 16, 11 A.M., 1956.

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Know All Men by These Presents

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MAY 8 11 39 AM '70

That We, DIANE JONES and RUTH M. ELLIS of North Hampton, County of Rockingham, and State of New Hampshire,

for consideration paid, grant to ARNOLD SILVERSTONE and BARBARA SILVERSTONE of 85 Post Road, North Hampton, County of Rockingham and State of New Hampshire,

as joint tenants with rights of survivorship, and not as tenants in common, with warranty covenants

A tract of land, with the buildings thereon, situate in North Hampton, County of Rockingham and State of New Hampshire, bounded and described as follows:

Beginning at an iron pipe on the Easterly line of the Post Road on the Southerly line of a thirty-foot driveway reserved by Ralph B. Seavey; thence N 88° E by land of said Seavey one hundred fifteen (115) feet, more or less, to an iron pipe; thence S 10° E by land of said Seavey one hundred (100) feet, more or less, to an iron pipe; thence Westerly by land of Dudley E. Carter and Joanne R. Carter one hundred forty (140) feet, more or less, to an iron pipe; thence Northerly by the Post Road one hundred (100) feet, more or less, to the point of beginning.

Meaning and intending to convey the same premises as were conveyed to the grantors herein by Foreclosure Deed of Avco Delta Mortgage Corporation dated November 7, 1969 and recorded Book 1993, Page 344 of the Rockingham County Registry of Deeds.

See also deed of Avco Delta Mortgage Corporation to the grantors herein to be recorded herewith.

STATE OF NEW HAMPSHIRE
TAX ON TRANSFER OF REAL PROPERTY
STATE TAX COMMISSION
MAY-8'70
$18.50

I, Richard A. Jones, husband of Diane Jones, and I, Raymond Ellis, husband of Ruth M. Ellis, release to said grantee (s) all rights of (curtesy) and homestead and other interests therein.

Witness our hand (s) and seal (s) this 13th day of April, 19 70.

WITNESS:

C. Russell Sheldon
C. Russell Sheldon
to all

Diane Jones
Ruth M. Ellis
Richard A. Jones
Raymond P. Ellis

STATE OF NEW HAMPSHIRE COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this 13th day of April 19 70

by Diane Jones, Ruth M. Ellis, Richard A. Jones, and Raymond Ellis.

C. Russell Sheldon

~~Notary Public~~--Justice of the Peace

Title of Officer.

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WARRANTY DEED

I, Ralph B. Seavey,

of North Hampton, Rockingham County, State of New Hamp-hire, for consideration paid, grant to Freeman G. Brown and Hazen C. Brown

of Newburyport, Essex County, ~~State~~ Commonwealth of Massachusetts, with WARRANTY covenants, the following described premises:- (Description and incumbrances, if any)

A certain tract of land situated in North Hampton in said County of Rockingham on the easterly side of the Post Road, so called, and bounded and described as follows:-

Beginning at an iron pipe on the easterly side of said Post Road at the southwest corner of land of Ruth E. Page and thence running North 89° East along said Page land 105 feet to an iron pipe; thence turning and running southerly along other land of Ralph B. Seavey 100 feet to an iron pipe; thence turning and running westerly along said Seavey land 110 feet to an iron pipe on the easterly side of said Post Road; thence turning and running northerly along the easterly side of said Post Road 100 feet to the iron pipe at the point of beginning.

Meaning and intending to convey a portion of the same premises conveyed to me by warranty deed of James F. Leavitt dated May 8, 1951, recorded in Rockingham Records, Book 1209, Page 44.

And I, Esther S. Seavey, ~~husband~~ wife of said Grantor, release to said Grantee all rights of ~~curtesy~~ dower and homestead and other interest therein.

Witness our hands and seals this 30th day of August, 1956.

Witness:

Lawrence A. Martin for both.

Ralph B. Seavey
Esther S. Seavey

STATE OF NEW HAMPSHIRE
Rockingham, ss.

Aug. 30, 1956

Ralph B. Seavey and Esther S. Seavey

Personally appeared and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me,

Lawrence A. Martin
Justice of the Peace.
Notary Public.

LAWRENCE A. MARTIN NOTARY PUBLIC STATE OF NEW HAMPSHIRE U.S.A.

Received and recorded Sept. 28, 2:15 P.M. 1956

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EXHIBIT C. 4

BK2554 P1511

KNOW ALL MEN BY THESE PRESENTS THAT, I, Ester Seavey, of Atlantic Avenue, North Hampton, County of Rockingham, and State of New Hampshire, for consideration paid, grant to Jerik W. Sanderson, Jr., of 33 Hobbs Road, North Hampton, County of Rockingham, and State of New Hampshire, with WARRANTY COVENANTS.

A certain tract of land in North Hampton, County of Rockingham and State of New Hampshire, bounded and described as follows:

Beginning at an iron pipe in the wall on the Easterly side of Post Road at the Northwest corner of the land herein conveyed and running about North 88° East by land of Myra F. Haven and Judith A. (Haven) Johnson along the remnants of a wire fence a distance of five hundred and twenty-seven (527) feet to a corner at land of Ralph B. Seavey; thence turning and running about South 55° East by land of said Seavey along a wire fence and stone wall a distance of nine hundred and thirty (930) feet to a corner at other land of said Seavey; thence turning and running about South 22° West by other land of said Seavey by a stone wall and fence a distance of seven hundred and forty-one (741) feet to a corner at land of Elliot A. Stevens, said corner being center of a brook; thence turning and running about South 70° West by a wire fence a distance of one hundred and nineteen (119) feet to an iron pipe at land formerly of James F. Leavitt, now land of James K. Leavitt; thence turning and running about North 13° West by said James K. Leavitt land a distance of one hundred and sixty-eight feet (168) to an iron pipe; thence turning and running still by said James K. Leavitt land about South 40° West a distance of sixty (60) feet to an iron pipe in the center of a brook at land of Samuel P. Garland; thence turning and running about North 10° West by said Garland land along a fence a distance of six hundred and twenty-eight (628) feet to a corner; thence turning and running about South 83° West by a stone wall a distance of two hundred and twelve (212) feet and about South 75° West by a fence and ditch a distance of three hundred (300) feet, still by land of Samuel P. Garland to the center of a brook at land of Forrest E. Knowles; thence turning and following the center of said brook by land of said Knowles about North 55° West a distance of one hundred and twenty-five (125) feet to the Easterly side of Post Road; thence turning northerly and following the wall on the Easterly side of said Post Road a distance of six hundred and thirty-two feet (632) to the point of beginning. Said tract contains 19.42 acres, more or less; EXCEPTING THOSE PARCELS located on Post Road which have previously been conveyed by deeds of record in said Registry.

Being the same premises conveyed to Ester Seavey by Estate of Ralph B. Seavey. See Rockingham County Probate records.

This is not homestead property.

Signed this 31ST day of December, 1985.

Ester Seavey

State of New Hampshire
Rockingham, ss.

December 31, 1986

Personally appeared Ester Seavey, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes therein contained, before me.

Paul G. Sanderson

Notary Public/Justice of the Peace

PAUL G. SANDERSON, Notary Public
My Commission Expires April 3, 1990

Dec 31 4 01 PM '86
ROCKINGHAM COUNTY
REGISTRY OF DEEDS

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EXHIBIT
tabbies C.5

MAIL TO

Please return to:
Robinson, Bogosle, Sennott & Masse, P.A.
195 New Hampshire Avenue, Suite 255
Portsmouth, NH 03801

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002191

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that we, **Julee Sanderson** and **David Sanderson**, as Successor Trustees of the **Jarib M. Sanderson 2013 Revocable Trust**, dated March 14, 2013, with a mailing address of 3 Olivia Lane, Kensington, New Hampshire 03833, for no consideration paid, grant to **Julee Sanderson** and **David Sanderson**, as Trustees of the **Jarib M. Sanderson Family Trust**, u/a/d March 14, 2013, with a mailing address of 3 Olivia Lane, Kensington, New Hampshire 03833, with **WARRANTY** covenants, all its right, title and interest in its one-half (½) undivided tenant-in-common interest in the following described premises:

Five (5) tracts of land with the buildings thereon situated in the **Towns of North Hampton and Greenland**, County of Rockingham, State of New Hampshire, more particularly bounded and described as follows:

Tract 1: A certain tract of land in North Hampton, in the County of Rockingham and State of New Hampshire, bounded and described as follows:

Beginning at an iron pipe in the wall on the Easterly side of Post Road at the Northwest corner of the land herein conveyed and running North 88° East by land of Myra F. Haven and Judith A. (Haven) Johnson along the remnants of a wire fence a distance of 527 feet to a corner at land of Ralph B. Seavey; thence turning and running about South 55° East by land of said Seavey along a wire fence and stone wall a distance of 930 feet to a corner at other land of said Seavey; thence turning and running about South 22° West by other land of said Seavey by a stone wall and fence a distance of 741 feet to a corner at land of Elliot A. Stevens, said corner being center of a brook; thence turning and running about South 70° West by a wire fence a distance of 119 feet to an iron pipe at land formerly of James F. Leavitt, now land of James K. Leavitt; thence turning and running about North 13° West by said James K. Leavitt land a distance of 168 feet to an iron pipe; thence turning and running still by said James K. Leavitt land about South 40° West a distance of 60 feet to an iron pipe in the center of a brook at land of Samuel P. Garland; thence turning and running about North 10° West by said Garland land along

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EXHIBIT
D

ARTICLE I – PURPOSE AND DEFINITIONS

SECTION 101 PURPOSE 1944 - Saml

For the purpose of promoting the health, safety, and the general welfare of the community, the following ordinance is hereby enacted by the legislative body of the Town of North Hampton (a municipal corporation in the County of Rockingham and State of New Hampshire) in official meeting convened: *3/14/1968. The ordinance shall not apply to the Little Boar's Head Village District, which was granted exclusive Planning and Zoning authority by an act of the New Hampshire Legislature in 1937. *3/8/2016

SECTION 102 TITLE

This ordinance shall be known and may be cited as the "North Hampton Zoning Ordinance." *3/12/1968

SECTION 103 INTERPRETATION

In the interpretation and enforcement of this Ordinance, all words other than those defined specifically below shall have the meanings implied by their context in the Ordinance or their ordinarily accepted meanings. The word "person" includes a firm, association, organization, partnership, trust company, or corporation as well as an individual. The present tense includes the future tense. The singular number includes the plural; the plural number includes the singular. The word "shall" is mandatory; the word "may" is permissive. The word "lot" includes the words "plot" or "parcel."

SECTION 104 DEFINITIONS *3/08/2005

1. **Accessory Dwelling Unit:** One dwelling unit, located within a single-family principal dwelling that is clearly subordinate to the principal dwelling and meets the conditions set forth in Section 401. An Accessory Dwelling Unit shall provide independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation. *3/13/1990, 3/14/2017

2. **Accessory Structure:** Any structure on a lot, that is detached or not from the principal structure on that lot and is or its use is incidental and subordinate to that principal structure. Garages for motor vehicles, with a footprint no greater than 1,008 square feet, attached or not to the principal structure, are not considered Accessory Structures as long as that garage is the first instance of a garage on a Lot of Record. *3/12/2019

3. **Accessory Use:** A use customarily incidental and subordinate to the principal use and located on the same lot as the principal use.

4. **Adult and Senior Facilities or Services:** *3/14/2017

A. Assisted Living Facility: A State licensed facility which combines apartment living (including studio apartments) with a variety of support services including meals, assistance with personal care, housekeeping, laundry, social and recreational programs, oversight of residents medication, 24 hour security, on-site staff to respond to emergencies. These facilities may also offer specialized care for persons with dementia or Alzheimer's Disease. See RSA 151-E:2.I.

B. Nursing Facility: A State licensed facility which is primarily engaged in providing 24-hour care for residents needing: (a) skilled nursing care, medical monitoring, and related services; (b) rehabilitation services for the rehabilitation of injured, chronically disabled, or sick; (c) medication administration or instruction and supervision; or (d) on a regular basis, health-related care and services (above the level of room and board) which can be made available to them only through facilities which provide 24-hour care. See RSA 151-E:2, V.

C. Senior (Elder) Day Care Facility or Senior (Elder) Day Care Center: non-residential facility that operates during daytime hours which supports one or more of the following services including but not

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203.2 Lots which abut on more than one street shall provide the required front yards along every street. *3/12/1968

203.3 Any lot of record existing at the effective date of this ordinance shall not be merged with any adjoining lot other than by a lot merger as authorized by RSA 674:39-a. Lots merged by municipal action for assessing or taxation purposes prior to the effective date of this ordinance and without the consent of the property owner shall not be deemed to have been merged for the purposes of this Zoning Ordinance, the Town's Subdivision Regulations, or Site Plan Review Regulations.

203.4

A. Any lot of record existing on March 5, 1974 may be used for the erection of a structure for a purpose that conforms to the use regulations of the district in which it is located even though the lot does not meet the minimum area requirements for said district. While one acre of contiguous upland is not required before a building permit may be issued for said lot, all such lots, shall, however, have minimum frontage, as specified in the table below, and shall meet setback requirements for said district, including wetland buffers as provided in Section 501, and setbacks for a state approved septic system plan, and for a well for potable water where public water service is not available.*3/10/2009, *5/11/2010

Table of Frontage Requirements

Lot Size (acres)	Minimum Frontage
>/= 3.0	40 feet
<3.0 & >/= 2.5	50 feet
<2.5 & >/= 2.0	60 feet
<2.0 & >/= 1.5	70 feet
<1.5 & >/= 1.0	80 feet
<1.0 & >/= 0.5	90 feet
<0.5	100 feet

B. For existing lots of record that do not meet minimum frontage requirements per table in 203.4.A and have existing legal structures, an accessory structure may be erected with a building permit provided that the accessory structure meets requirements of applicable sections of the Town of North Hampton Zoning Ordinance. *3/10/2020

203.5 Industrial-Business structures or uses shall not be located or conducted closer to any lot line of any other lot in any "R" District than 35 feet. *3/5/1974

203.6 Duplex Requirements: The minimum lot size for a duplex shall be 100,000 square feet and the lot shall contain a minimum of 60,000 square feet of contiguous non-wetland area. No additional frontage is required, other than that specified in Section 203.1-12. Any proposed duplex on an existing lot of record must have 175 feet of frontage in the R-1 district, and 250 feet of frontage in the I-B/R. The maximum number of bedrooms allowed per unit is three (3). Each dwelling unit shall have a minimum living area of 720 square feet. An adequate septic system built to standards of the N.H. Department of Environmental Services (NH DES) must be provided. *3/10/1992, 3/11/2014, 3/10/2015

203.7 Multiple Dwelling Lot and Yard Requirements: A Multiple Dwelling shall be located only in the I-B/R Industrial Business Residential District and shall be constructed only on a lot which meets all the lot and yard requirements for the location of structures in the I-B/R Industrial Business Residential District as set forth in Section 203.1-12. In addition, a multiple dwelling building lot must contain two

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B. **Large scale distribution and logistics facilities**, including but not limited to facilities like those operated by trucking firms, by package and mail carriers such as FedEx and United Parcel Service, by major retail chains such as Wal-Mart, K Mart, and Sears and by automotive manufacturers for parts distribution.

C. **Storage of raw materials for processing and the processing of raw materials for distribution or retail sale**, including but not limited to stockpiling or storage of dirt and debris for sifting and screening in the production of loam, storage or processing of manure or other materials for production of fertilizer, stockpiling and processing materials for concrete or asphalt production.

202.9 NON-CONFORMING USES

The following provisions shall apply to all non-conforming uses:

A. All uses existing at the time of the adoption of this Ordinance, or during the year preceding its adoption, of any buildings or premises may be continued without restriction.

B. A non-conforming use may be continued but may not be extended or expanded unless to a conforming use, except as permitted by the Zoning Board of Adjustment in accordance with the provisions of this Ordinance. *3/8/2016

C. Any non-conforming structure damaged by fire, flood, explosion, or other casualty may be reconstructed and used as before if such reconstruction is performed with 12 months of such casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before such casualty.

D. In the event that any non-conforming use, conducted in a structure or otherwise, ceases, for whatever reason, for a period of one year, or is abandoned for any period, such non-conforming use shall not be resumed. *3/12/1968

E. Structures on a non-conforming lot can be expanded if the expansion meets current zoning. *3/10/1998, 3/8/2016

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10/1/21, 6:38 AM 87 Post Rd - Google Maps

Google Maps 87 Post Rd

EXHIBIT

Imagery ©2021 Maxar Technologies, Map data ©2021 50 ft

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Google Maps 80 NH-151

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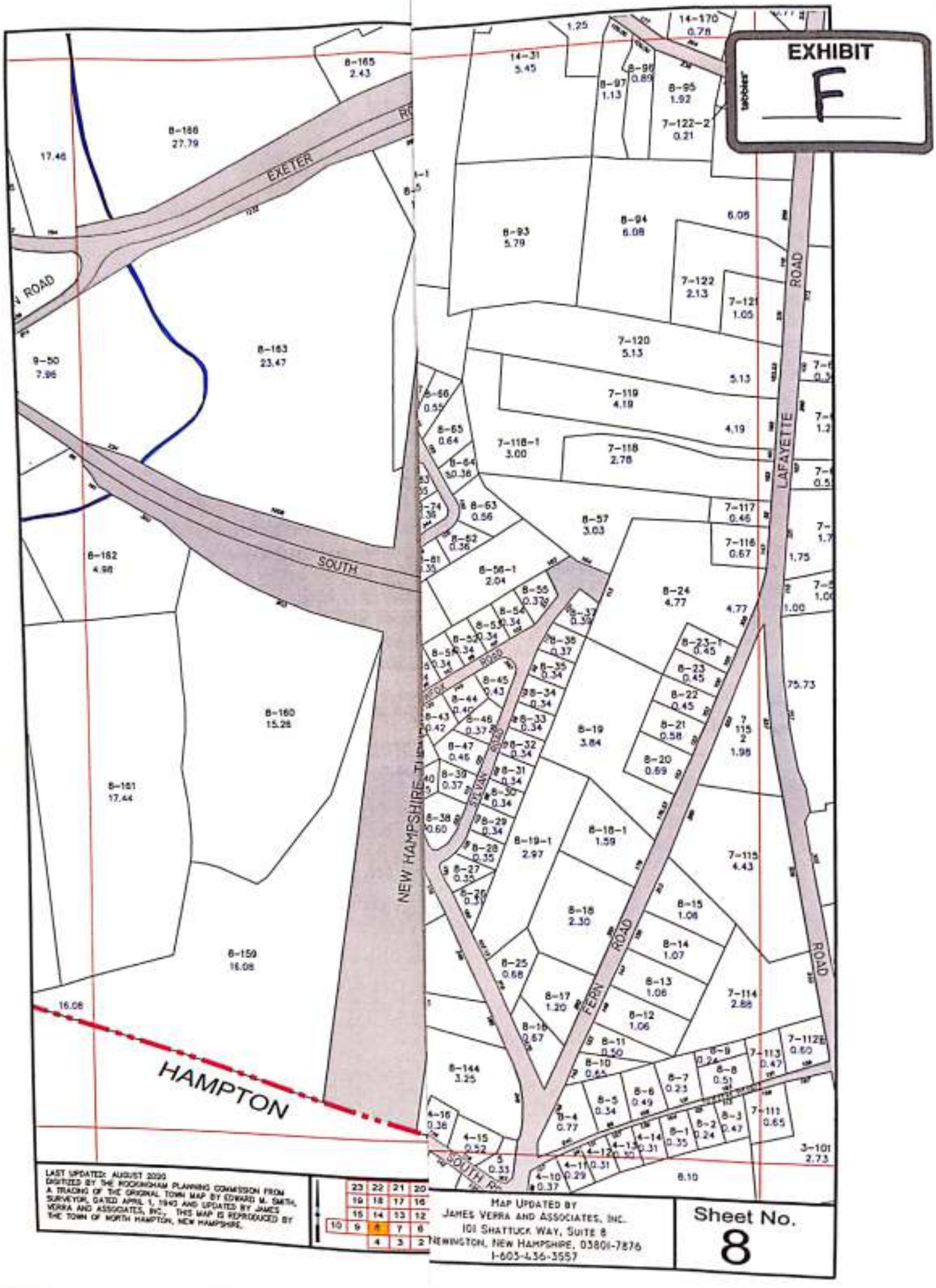

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TITLE LXIV
PLANNING AND ZONING

EXHIBIT G

CHAPTER 674
LOCAL LAND USE PLANNING AND REGULATORY POWERS

Regulation of Subdivision of Land

Section 674:39-a

674:39-a Voluntary Merger. –

I. Any owner of 2 or more contiguous preexisting approved or subdivided lots or parcels who wishes to merge them for municipal regulation and taxation purposes may do so by applying to the planning board or its designee. Except as set forth in paragraphs II and III, all such requests shall be approved, and no public hearing or notice shall be required. No new survey plat need be recorded, but a notice of the merger, sufficient to identify the relevant parcels and endorsed in writing by the planning board or its designee, shall be filed for recording in the registry of deeds, and a copy mailed to the municipality's assessing officials. No such merged parcel shall thereafter be separately transferred without subdivision approval. No city, town, county, or village district may merge preexisting subdivided lots or parcels except upon the consent of the owner.

II. If there is any mortgage on any of the lots, the applicant shall give written notice to each mortgage holder at the time of the submission of the application. The written consent of each mortgage holder shall be required as a condition of approval of the merger, and shall be recorded with the notice of the merger pursuant to paragraph I. Upon recordation of the notice and each consent, the mortgage or mortgages shall be deemed by operation of law to apply to all lots involved in the merger. The municipality shall not be liable for any deficiency in the notice to mortgage holders.

III. No merger shall be approved that would create a violation of then-current ordinances or regulations.

Source. 1995, 291:9. 2010, 345:1, eff. Sept. 18, 2010. 2016, 327:1, eff. Aug. 23, 2016.

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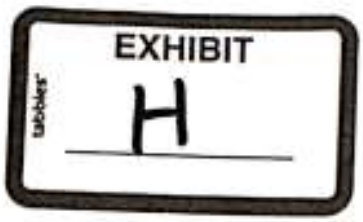

Myth #3: The owner of a substandard lot (smaller than current zoning allows) is grandfathered for every use allowed in that district.

This is not true. Remember from Myth #1, grandfathering protects lawfully pre-existing nonconforming uses. A vacant lot may have existed before zoning made it substandard, but it isn't being "used" yet. This means ordinary grandfathering does not protect the owner of this property. There are three ways an owner might build on a substandard lot. The first and most straightforward is if there is a "lot of record" savings clause in the zoning ordinance. These clauses exempt pre-existing lots from later-enacted frontage and/or lot size requirements, or in some cases, allow buildings on those lots by special exception. If there is a savings clause, then the owner can exercise whatever rights that clause gives the owners of substandard lots. (Here again, the terms of the ordinance are really important.)

If there is no savings clause in the ordinance, then the owner must obtain a variance from the zoning board of adjustment (ZBA), and a building permit and site plan approval (as the municipality requires), to build any structure on a substandard lot. The purpose of a variance is to protect the Constitutional rights of the owner by preventing him or her from being deprived of the viable economic use of the property. However, even the Constitution does not provide that every lot, regardless of size, must support at least one single-family home. The ZBA must determine whether the variance is appropriate for that particular lot, taking into account all of the facts and circumstances. For example, an owner of a substandard shorefront lot was denied a variance for a seasonal home because there was no adequate place for a septic system. *Carter v. Derry*, 113 N.H. 1 (1973).

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David & Julie Sanderson, Trustees
Jarib M. Sanderson Family Trust
3 Olivia Lane
Kensington, NH 03833
Tax Map 8 /Lot 101, 104

Anna S. Pike
P.O. Box 703
North Hampton, NH 03862
Tax Map 8/Lot 105

Arnold & Barbara Silverstone, Trustees
Silverstone Family Revocable Trust
85 Post Road
North Hampton, NH 03862
Tax Map 8/Lot 103

Robert Monahan
83 Post Road
North Hampton, NH 03862
Tax Map 8/Lot 102

Phebe Mason
84 Post Road
North Hampton, NH 03862
Tax Map 8/Lot 125

Karen Hadfield, Trustee
Karen Hadfield, Rev. Trust
71 Post Road
North Hampton, NH 03862
Tax Map 8/Lot 98

Jacqueline C. Coons
69 Post Road
North Hampton, NH 03862
Tax Map 8/Lot 91

Rachel & Dieter Ebert, Trustees
Ebert Family Revoc. Trust
12 Cedar Road
North Hampton, NH 03862
Tax Map 8/Lot 92

Dieter T. Ebert
12 Cedar Road
North Hampton, NH 03862
Tax Map 14/Lot 34-1

Homer A. Johnson, Jr, Trustee
Homer A Johnson Jr. Rev. Trust
89 Post Road
North Hampton, NH 03862
Tax Map 14/Lot 41& 42

David & Julie Sanderson, Trustees
Jarib M. Sanderson Family Trust
3 Olivia Lane
Kensington, NH 03833
Tax Map 8 /Lot 101, 104

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North Hampton, NH 03862
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North Hampton, NH 03862
Tax Map 8/Lot 98

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Homer A Johnson Jr. Rev. Trust
89 Post Road
North Hampton, NH 03862
Tax Map 14/Lot 41 & 42

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Jarib M. Sanderson Family Trust
3 Olivia Lane
Kensington, NH 03833
Tax Map 8 /Lot 101, 104

Anna S. Pike
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North Hampton, NH 03862
Tax Map 8/Lot 105

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